

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TOMITA TECHNOLOGIES USA, LLC; TOMITA :
TECHNOLOGIES INTERNATIONAL, INC. :
Plaintiffs, : 11 Civ. 4256 (JSR)
: ORDER
-v- :
NINTENDO CO., LTD.; NINTENDO OF :
AMERICA INC., :
Defendants. :
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JED S. RAKOFF, U.S.D.J.

On November 22, 2011, the Court heard oral argument regarding how to construe certain terms in the claims of U.S. Patent No. 7,417,664 (the "'664 patent"). Having now fully considered the parties' written submissions and oral presentations, the Court makes the following findings:

- The term "video image pick-up means" requires no construction.
- The term "stereoscopic video image pick-up device . . . for outputting video information from said pick up means" requires no construction.
- The term "cross-point (CP)" requires no construction.
- The term "cross-point information" means "information relating to the cross point, including information that can be used to determine the distance from the image pick-up means to the cross point."

- The term "optical axes" requires no construction.
- The term "cross-point measuring means for measuring CP information on the cross-point of optical axes of said pick-up means" is a means-plus-function limitation under 35 U.S.C. § 112(6). The function is "to measure CP information on the cross-point (CP) of the optical axes of the two video pick-up means." The corresponding structure is comprised of a cross-point data device that determines the cross-point information as described and shown, for example, in Figure One (where it is identified as number 403) and Figure Three (where it is identified at number 12), and in the '664 patent at 3:50-67, 4:1-6, 8:11-18, 9:23-35, and 18:17-42. The structure also includes equivalents of the structures described above.
- The term "offset presetting means for offsetting and displaying said different video images based upon said video image information, said cross-point information and information on the size of the image which is displayed by said stereoscopic video image display device" is a means-plus-function limitation under 35 U.S.C. § 112(6). The function is "offsetting and displaying said different video images based upon said

video image information, said cross-point information and information on the size of the image which is displayed by said stereoscopic video image display device." The structure is comprised of a circuit and a manual entry unit that sets the offset between the right and left eye images. The '664 patent describes various embodiments of this structure in Figures One and Two, which identify it as number 106, Figures Two and Three, which refer to manual entry of information, Figures Four through Eight, and at 3:24-29, 3:39-44, 4:14-19, 4:63-67, 5:21-24; 5:35-37, 5:63-67, 9:3-10, 11:12-12:52, 15:50-67, 16:9-10, 16:15-16, 17:58-63, 18:6-11, 18:49-54, 19:31-35, 19:56-59, and 20:3-5. The structure also includes equivalents of the structures described above.

- The term "calculates the cross-point based upon the position of picking-up of an object in said two pick-up means" means "calculates the cross-point based upon the position of an object in the images picked up by the two pick-up means."
- The term "disposed in a parallel relationship" requires no construction.
- The term "stereoscopic feeling" requires no construction.

A written opinion stating the reasons for this ruling will issue in due course. In the meantime, the parties should proceed in accordance with the dates set forth in the Case Management Plan.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
December 31, 2011